

COUNTY OF ERIE

LOCAL LAW INTRO. NUMBER 8 – 2001

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LOCAL LAW NO. 5 -- 2001

A LOCAL LAW in relation to the required use of protective safety helmets on foot-powered scooters and skateboards in Erie County.

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF ERIE AS FOLLOWS:

SECTION 1. Legislative Intent. The Erie County Legislature hereby finds, declares and determines that young persons riding or operating foot-powered scooters or skateboards on public and private roads, on sidewalks and in other places are at risk of sustaining serious injury due to falls occurring while the operator or passenger is at high speed. It is further determined that incidence of serious injury is reduced substantially by the wearing of safety helmets upon the head and by the wearing of other protective safety equipment. It is finally determined that a law requiring young persons to protect themselves by using safety equipment, including helmets, is in the public interest, and will result in decreased incidences of serious injury to young persons operating foot powered scooters and skateboards.

SECTION 2. Helmet Requirements. No person under the age of fourteen years shall operate a foot-powered scooter or skateboard, or ride as a passenger on a foot powered scooter unless such operator or passenger is wearing a helmet meeting the standards of the American National Standards Institute (Anzi Z 90.4 bicycle helmet standards) or of the Snell Memorial Foundation 1984 Standard for Protective Headgear For Use In Bicycling or by the United States Consumer Products Safety Commission, as last revised by said organizations. For the purposes of this law, "wearing a helmet" shall mean having a helmet of good fit fastened securely upon the head with the helmet straps.

SECTION 3. Enforcement. The Erie County Sheriff's Office, New York State Police and all local police authorities with jurisdiction within Erie County shall take any and all actions to enforce this law in any court of competent jurisdiction. A police officer shall issue an appearance ticket or summons and local criminal court accusatory instrument, as those terms are defined in the Criminal Procedure Law, for a violation of Section 2 of this law by a person less than fourteen years of age, to the parent or guardian of such person, if the violation by such person occurs in the presence of such person's parent or guardian, and where such parent or guardian is eighteen years of age or more. Such appearance ticket or summons and local criminal court accusatory instrument shall only be issued to such parent or guardian, and shall not be issued to the person less than fourteen years of age.

SECTION 4. Civil Penalty.

- a. Any person who receives a ticket or summons and local criminal court accusatory instrument under Section 3 of this law shall pay a civil fine not to exceed \$50.
- b. Waiver of Fine. The court may waive any fine for which a person who violates the provisions of Section 2 of this law if such person supplies proof to the court that between the date of violation and the appearance date for such violation such person purchased or rented a helmet. Such waiver of said fine shall not apply to any subsequent conviction under Section 2 of this law. The court may waive any fine for which a person who violates the provisions of Section 2 of this law if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet, or due to such economic hardship such person was unable to obtain a helmet from any statewide helmet distribution program, as established in section two hundred six of the Public Health Law, or a local distribution program.

SECTION 5. No effect upon personal injury or wrongful death lawsuit. The failure of any person to comply with the provisions of this law shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

SECTION 6. Severability. If any clause, sentence, paragraph, section, part or provision of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, part or provision thereof directly involved in the proceeding or action in which such adjudication has been rendered.

SECTION 7. Effective Date. This law shall be effective immediately upon filing with the Secretary of State pursuant with Section 27 of the New York Municipal Home Rule Law.

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